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REPORT OF THE SELECT COMMITTEE
ON
THE BONDED LABOUR SYSTEM (ABOLITION) BILL, 1975
AND
THE BILL AS REPORTED BY THE SELECT COMMITTEE

PRINTED AND PUBLISHED BY THE S.G.P. AT THE GOVERNMENT PRESS,
TRIVANDRUM, 1975.

33/1531/BAC

THE BONDED LABOUR SYSTEM (ABOLITION) BILL, 1975

(Report of the Select Committee)

The Select Committee to which the Bonded Labour System (Abolition) Bill, 1975 was referred have considered the Bill clause by clause and now submit this their report with the Bill as reported by the Committee annexed thereto.

2. The Bill as published as a Gazette Extraordinary dated March 20, 1975. The Bill was introduced in the Assembly on March 21, 1975 and the motion for reference to the Select Committee was adopted on the same day.

3. The Committee held two sittings. The changes proposed by the Committee and the reasons therefor are set out in the following paragraphs.

4. *Clause 5.*—Sub-clause (1) provides that the creditor shall file his claims, and the debtor shall file his objections thereto, before the Revenue Divisional Officer, within whose jurisdiction the debtor ordinarily resides or carries on business. The Committee are of the opinion that a debtor may not have any fixed place of business and therefore it is not necessary to make any reference to the place where the debtor carries on business. The sub-clause has accordingly been modified omitting the words "or carries on business".

5. *Clause 10.*—This clause provides that Co-operative Society may advance to a debtor the amount of the debt due from him to the creditor and the interest thereon for the purpose of repayment to the creditor. The Committee are of the opinion that no useful purpose will be served by this provision since loans will be granted by a Co-operative Society only to its members and a debtor may not be able to become a member of a Co-operative Society. The Committee therefore consider that instead of Co-operative Society the Government may advance to a debtor the amount required for repayment of the debt as loan or grant. The clause has accordingly been revised.

6. *Clauses 13 & 16.*—These clauses have been modified to prescribe a minimum period of imprisonment and a minimum amount of fine which may be imposed on a person who commits the offences specified therein.

V. EACHARAN,

Chairman of the Select Committee.

THE BONDED LABOUR SYSTEM (ABOLITION) BILL, 1975

(As amended by the Select Committee)

[Words underlined or sidelined indicate the amendments suggested by the Committee, omissions are indicated by asterisks]

A

BILL

to provide for the abolition of the bonded labour system prevalent in the districts of Kozhikode, Malappuram and Cannanore in the State of Kerala.

Preamble.—Whereas it is expedient to provide for the abolition of the bonded labour system prevalent in the districts of Kozhikode, Malappuram and Cannanore in the State of Kerala,

Be it enacted in the Twenty-sixth year of the Republic of India as follows:-

1. *Short title and extent.*—(1) This Act may be called the Bonded Labour System (Abolition) Act, 1975.

(2) It extends to the whole of the districts of Kozhikode, Malappuram and Cannanore in the State of Kerala.

2. *Bonded labour system defined.*—"Bonded labour system" consists in the payment of cash called vallurkavu panam or nilpu panam or by whatever name it may locally be known or the payment in kind, by one person (hereinafter called the creditor) to a person belonging to a Scheduled Tribe (hereinafter called the debtor), whether evidenced by writing or otherwise, on any one or both of the following terms, namely:—

(a) that in consideration of the payment of cash or the payment in kind made by the creditor to the debtor, the debtor shall, by himself or through members of his family, render labour or personal service to the creditor for a specified period, either without wages or on payment of nominal wages;

(b) that on failure to render the labour or personal service referred to in clause (a), the debtor shall be bound to repay the cash or the value of the thing received by him and vacate the hut, if any, occupied by him and situated in the land belonging to the creditor.

Explanation.—The expression "Scheduled Tribe" shall have the meaning assigned to it in the Constitution of India.

3. *Bonded labour system abolished.*—(1) On and from the date of commencement of this Act,—

(a) the bonded labour system shall stand abolished; and

(b) no person shall make any payment of cash or any payment of kind under the bonded labour system.

(2) If, on or after the date of commencement of this Act, any cash is paid or any payment in kind is made under the bonded labour system, the cash paid or the value of the thing given shall not be recoverable by suit or other proceedings in any court, and the debtor or any member of his family shall not be bound or compelled to render any labour or personal service by reason of such payment.

4. *Obligation to perform labour or personal service to be deemed extinguished.*—(1) All obligations of the debtor to perform labour or personal service arising from any payment of cash or any payment in kind under the bonded labour system made before the commencement of this Act shall, on such commencement, be deemed to have been extinguished.

(2) Nothing contained in sub-section (1) shall be deemed to affect the liability of the debtor to repay the whole or such portion of the cash or the value of the thing received by him under the bonded labour system before the commencement of this Act, which has not been repaid before such commencement either in cash or by performing labour or personal service.

5. *Determination of past debts.*—(1) If the cash paid or the value of the thing given under the bonded labour system before the commencement of this Act has not been repaid in whole or in part before such commencement, either in cash or by performing labour or personal service, the Government may, by notification in the Gazette, require—

(a) the creditor to file all his claims and to produce all his books of account or other documents in support of such claims;

(b) the debtor to file all his objections,

before the Revenue Divisional Officer within whose jurisdiction the debtor ordinarily resides * * * * within such period as may be specified in the notification.

(2) Any creditor who fails to file his claims within the period referred to in sub-section (1) shall, on the expiry of such period, have no right of action against the debtor, and the debt shall be deemed to have been discharged.

(3) No book of account or other document which has not been produced before the Revenue Divisional Officer within the period referred to in sub-section (1) shall be admitted as evidence in support of the claims of the creditor.

(4) The Revenue Divisional Officer shall, after considering the claims and objections filed under sub-section (1) and examining the books of account

and other documents produced under that sub-section and after giving the creditor, the debtor and any other person interested an opportunity of being heard, by order determine—

(a) the amount of the debt payable by the debtor to the creditor;

(b) the interest, if any payable on such debt;

(c) the number and periodicity of instalments in which the debt including interest, if any, is payable and the amount payable at each instalment:

Provided that such interest shall not exceed the average rate of interest prevalent in the locality for a period of three years immediately preceding the date of commencement of this Act:

Provided further that the period between two instalments shall not be less than three months and the amount payable at an instalment shall not exceed ten rupees.

(5) If the principal amount of the debt together with the interest payable thereon till the commencement of this Act would exceed twice such principal amount, the total amount of the debt together with the interest that would have been due from the debtor if he had not repaid any part of the principal amount of the debt shall, for the purpose of calculating the amount of debt due from the debtor to the creditor, be deemed to be twice such principal amount, and in such cases the amount of the debt payable by the debtor shall be the difference between twice the principal amount of the debt and the amounts already repaid by him whether in cash or in kind or by performing labour or personal service.

(6) For the purposes of this section, the money value of labour or personal service performed by a debtor shall be determined taking into account the number of days on which the debtor had performed labour or personal service and the wages prevalent in the locality for such labour or personal service when it was performed.

6. *Appeal.*—(1) Any person aggrieved by an order of the Revenue Divisional Officer under sub-section (4) of section 5 may prefer an appeal against that order to the District Collector having jurisdiction over the area in which the debtor ordinarily resides or carries on business, within a period of sixty days from the date of such order.

(2) On receipt of an appeal under sub-section (1), the District Collector may, after giving the appellant and any other person interested an opportunity of being heard, pass such order on the appeal as he thinks fit.

(3) An order of the District Collector under sub-section (2) shall be final.

7. *Legal practitioner not to appear before Revenue Divisional Officer and District Collector.*—No legal practitioner shall appear, plead or act on behalf of any party in any proceeding before the Revenue Divisional Officer or the District Collector under this Act.

8. *Revenue Divisional Officer and District Collector to have certain powers of Civil Courts.*—In the exercise of their powers under this Act, the Revenue Divisional Officer and the District Collector shall have all the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908 (Central Act 5 of 1908), in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of any document;

(c) receiving evidence on affidavit;

(d) issuing commissions for examination of witnesses or for local investigation; and

(e) any other matter which may be prescribed.

9. *Orders under sections 5 and 6 to be deemed to be decrees of civil courts.*—(1) Every order passed under section 5 or section 6 shall be deemed to be a decree of a civil court and shall be executed in the same manner as a decree of such court.

(2) Every order referred to in sub-section (1) shall contain a concise statement of the case, the points for determination, the decision thereon and the reasons for such decision.

(3) An order passed by a civil court in execution of an order under section 5 or section 6 shall not be subject to appeal but shall be subject to revision by the court to which appeals ordinarily lie against the decisions of the said court.

10. *Government to assist debtor in repayment of Debt.*—The Government may, subject to such rules as may be made in this behalf, advance to a debtor, as loan or grant, the amount of the debt due from him to the creditor and the interest, if any, thereon as determind under section 5, for the purpose of repayment to the creditor.

11. *Bar of jurisdiction of Civil Courts.*—No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which the Revenue Divisional Officer or the District Collector is empowered by this Act to decide, and no injunction shall be granted by any court in respect of any action taken or to be taken by them in pursuance of any power conferred by this Act.

12. *Transfer of certain suits to the Revenue Divisional Officer.*—All suits relating to the recovery of the cash paid or the value of the thing given under the bonded labour system, pending before any court at the commencement of this Act, shall be transferred to the Revenue Divisional Officer within whose jurisdiction the debtor ordinarily resides or carries on business, to be dealt with in accordance with the provisions of this Act.

13. *Penalties.*—(1) Whoever—

(a) pays any cash or makes any payment in kind or abets any person to pay any cash or make any payment in kind under the bonded labour system; or

(b) compels the debtor or abets any person to compel the debtor to render labour or personal service by reason of any payment of cash or any payment in kind under the bonded labour system,

shall be punishable for every such payment, compulsion or abetment with imprisonment for a term which shall not be less than one month but which may extend to one year or with fine which shall not be less than one hundred rupees but which may extend to five hundred rupees or with both.

14. *Offences under the Act to be cognizable.*—Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), every offence under this Act shall be cognizable.

15. *Jurisdiction of Courts.*—No court inferior to that of a magistrate of the first class shall try any offence punishable under this Act.

16. *Creditor not to accept any payment against discharged debt.*—(1) No creditor shall accept any payment against any claim for a debt which has been discharged or deemed to have been discharged under this Act.

(2) Whoever contravenes the provisions of sub-section (1) shall be punished with imprisonment for a term which shall not be less than one month but which may extend to one year or with fine which shall not be less than one hundred rupees but which may extend to five hundred rupees or with both.

(3) The court convicting any person under sub-section (1) may, in addition to the fine, direct such person to deposit the amount so accepted in the court within a period to be specified in the order, for being refunded to the debtor.

17. *Power to make rules.*—(1) The Government may, by notification in the Gazette, make rules for the purpose of carrying into effect the provisions of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions and, if before expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Secretariat of the Kerala
Legislature, Trivandrum,
May 7, 1975.

DR. R. PRASANNAN,
Secretary.

Reg. No. KL

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ON

THE HINDU MARRIAGE (KERALA AMENDMENT) BILL, 1973

AND

THE BILL AS REPORTED BY THE SELECT COMMITTEE

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1975

33/1532/MC

THE HINDU MARRIAGE (KERALA AMENDMENT) BILL, 1973

(Report of the Select Committee)

The Select Committee to which the Hindu Marriage (Kerala Amendment) Bill, 1973 was referred have considered the Bill clause by clause and now submit this their report with the Bill as reported by the Committee annexed thereto.

2. The Hindu Marriage (Kerala Amendment) Bill, 1973 was published as a Gazette Extraordinary of June 16, 1973. The Bill was introduced in the Assembly on July 11, 1973 and was referred to a Select Committee on the same day.

3. The Select Committee held six sittings, of which four sittings (one each at Kottayam, Ernakulam, Trichur and Calicut) were devoted to the recording of evidences from representatives of organisations, associations and persons interested on the provisions of the Bill.

4. The Committee considered the Bill clause by clause at their sitting held on April 8, 1975.

5. The Committee recommend that the Bill be passed without any modification, except the modifications indicated in the enacting formula and clause 1 which are necessitated due to the change of year.

VAKKOM PURUSHOTHAMAN,
Chairman of the Select Committee.

THE HINDU MARRIAGE (KERALA AMENDMENT) BILL, 1973

(As reported by the Select Committee)

A

BILL

to amend the Hindu Marriage Act, 1955, *in its application to certain sections of Hindus in the State of Kerala.*

Preamble.—WHEREAS it is expedient to amend the Hindu Marriage Act, 1955, in its application to certain sections of Hindus in the State of Kerala;

BE it enacted in the Twenty-sixth Year of the Republic of India as follows:—

1. *Short title, extent, application and commencement.*—(1) This Act may be called the Hindu Marriage (Kerala Amendment) Act, 1975.

(2) It extends to the whole of the State of Kerala.

(3) It shall come into force on such date as the Government may, by notification in the Gazette, appoint.

2. *Insertion of new section* 13A.—After section 13 of the Hindu Marriage Act, 1955 (Central Act 25 of 1955) (hereinafter referred to as the principal Act), the following section shall be inserted, namely:—

"13A. *Divorce by mutual consent.*—(1) Subject to the provisions of this Act, both the parties to a marriage, whether solemnised before or after the commencement of the Hindu Marriage (Kerala Amendment) Act, 1972, may present a joint petition to the court for dissolution of the marriage by a decree of divorce on the ground that they have been living separately for a period of not less than one year immediately preceding the presentation of the petition, that they have not been able to live together and that they have mutually agreed that their marriage should be dissolved.

(2) On the motion of both the parties made not earlier than one year after the date of the presentation of the petition under sub-section (1) and not later than two years after the said date, if the petition is not withdrawn in the meantime, the court shall, on being satisfied after hearing the parties and after making such inquiry as it thinks fit, that the averments in the petition are true, pass a decree of divorce declaring the marriage to be dissolved with effect from the date of the decree.

(3) The provisions of sub-sections (1) and (2) shall not apply if both the parties to the marriage are—

(a) Namboodiries as defined in the Kerala Namboodiri Act, 1958; and

(b) Hindus governed by the Mitakshara Law as modified by statutes".

3. *Amendment of section* 23.—In sub-section (1) of section 23 of the principal Act, after clause (b), the following clause shall be inserted, namely:—

"(bb) when divorce is sought on the ground of mutual consent, such consent has not been obtained by force, fraud or undue influence, and".

4. *Amendment of section* 29.—Sub-section (2) of section 29 of the principal Act shall be omitted.

Secretariat of the Kerala
Legislature, Trivandrum,
May 7, 1975.

DR. R. PRASANNAN,
Secretary.

Government of Kerala
1975

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SECRETARIAT OF THE KERALA LEGISLATURE

NOTIFICATION

No. 2841/LA1/75. *Dated, Trivandrum, 9th May 1975.*

In exercise of the powers conferred by sub-clause (a) of Clause 2 of Article 174 of the Constitution of India, as amended, the Governor of the State of Kerala hereby prorogues the Twelfth Session of the Fourth Kerala Legislative Assembly with effect from May 8, 1975.

ഭേദഗതി വരുത്തപ്പെട്ട ഇൻഡ്യൻ ഭരണഘടന 174-ാം വകുപ്പ് 2-ാം ഖണ്ഡം (എ) ഉപഖണ്ഡ പ്രകാരം നൽകപ്പെട്ട അധികാരങ്ങളെ വിനിയോഗിച്ച് കേരള സംസ്ഥാന ഗവർണ്ണർ നാലാം കേരള നിയമസഭയുടെ പന്ത്രണ്ടാം സമ്മേളനം 1975 മെയ് 8-ാം തീയതി മുതൽ ഇതിനാൽ സമാപിപ്പിച്ചിരിക്കുന്നു.

By order of the Governor,

DR. R. PRASANNAN,
Secretary,
Legislative Assembly.

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TRIVANDRUM, 1975.